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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
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7 ALEXANDER B. ARIZMENDI, AE0789,

8 Petitioner,

9 v.

10 RON DAVIS,

11 Respondent.

Case No. [17-cv-07348-CRB](#) (PR)

**ORDER DISMISSING PETITION FOR
A WRIT OF HABEAS CORPUS AS
SECOND OR SUCCESSIVE PETITION**

(ECF No. 2)

12 Petitioner, a state prisoner currently incarcerated at San Quentin State Prison, has filed a
13 second or successive petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging a
14 June 22, 2010 conviction from Santa Clara County Superior Court. His first petition was denied
15 on the merits on November 19, 2013. See Arizmendi v. Brazelton, No. 12-cv-04555-CRB (PR)
16 (N.D. Cal. Nov. 19, 2013) (order denying petition).

17 A second or successive petition may not be filed in this court unless petitioner first obtains
18 from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to
19 consider the petition. See 28 U.S.C. § 2244(b)(3)(A). Petitioner has not obtained such an order
20 from the Ninth Circuit. Accordingly, the petition is DISMISSED without prejudice to refile if
21 petitioner obtains the necessary order and the clerk is instructed to close the file.

22 But based solely on petitioner's affidavit of poverty, his application to proceed in forma
23 pauperis (ECF No. 2) under 28 U.S.C. § 1915 is GRANTED.

24 **IT IS SO ORDERED.**

25 Dated: January 4, 2018

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27 CHARLES R. BREYER
28 United States District Judge